UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ0429

UNITED STATES OF AMERICA, Plaintiff, v. **Juan Antonio MAGANA-Portillo,** Defendant	Magistrate Docket No. COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

FILED 2008 FEB 14 AM 9:42 CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **February 13, 2008** within the Southern District of California, defendant, **Juan Antonio MAGANA-Portillo,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14TH** DAY OF **FEBRUARY 2008.**

Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

MLP

CONTINUATION OF COMPLAINT:
Juan Antonio MAGANA-Portillo

PROBABLE CAUSE STATEMENT

On February 13, 2008, Border Patrol Agent C. Vargas was assigned to line watch duties in the Chula Vista Border Patrol Station area of operations. At approximately 9:30 a.m., San Diego Sector Air Support unit (Omaha) informed Agent Vargas via Sector radio of a group of approximately twenty subjects laying down on a side hill south of Otay Mountain Truck Trail in an area commonly referred to as "Crack Draw." This area is located approximately four miles east and half a mile north of the Otay Mesa Port of Entry, Otay Mesa, California. Agent Vargas arrived to the area where Omaha observed the group and found approximately twenty people hiding in the surrounding brush. Agent Vargas identified himself as a United States Border Patrol Agent and the group stood up and ran away attempting to avoid apprehension. With the assistance of Omaha, Agent Vargas was able to detain fifteen subjects.

Agent Vargas once again identified himself as a United States Border Patrol Agent, and questioned each subject as to their citizenship and nationality. Each subject including one later identified as the defendant **Juan Antonio MAGANA-Portillo**, stated that they were citizens and nationals of Mexico without any immigration documents that would allow them to enter or remain in the United States legally. All fifteen subject were arrested and transported to the Chula Vista Border Patrol for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 28, 2002,** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.